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Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

PEBBLE LIMITED PARTNERSHIP,

Plaintiffs,

vs.

ENVIRONMENTAL PROTECTION
AGENCY, et al.;

Defendants.

CASE NO. MC-15-2-BU-BMM-JCL

**NON-PARTIES CENTER FOR
SCIENCE IN PUBLIC
PARTICIPATION AND DR. DAVID
CHAMBERS' JOINT MOTION TO
QUASH PLAINTIFF'S
SUBPOENAS**

Movants Dr. David Chambers (Dr. Chambers) and the Center for Science in Public Participation ("CSP2"), a Montana resident and non-profit organization respectively, move this Court to quash the subpoenas served on them by Pebble

Limited Partnership ("PLP") pursuant to F.R.C.P 45 in PLP's Alaska lawsuit against the U.S. Environmental Protection Agency ("EPA"), which lawsuit alleges violations of the Federal Committee Advisory Act, 5 U.S.C. app. 2 §§ 1-16 ("FACA"). The Center for Science in Public Participation (CSP2) and Dr. David Chambers (Dr. Chambers), are not parties to that lawsuit pending in the Federal District Court of Alaska. Compliance for the subpoenas was commanded in Butte Montana. *See* Subpoenas attached as Exhibits A and B.

On September 25, 2015 counsel for CSP2 and Dr. Chambers held a meet and confer with counsel for Plaintiff Pebble Limited Partnership, pursuant to local rules, but were unable reach any agreement concerning the production of materials sought by the subpoenas. On October 1, 2015 counsel for CSP2 and Dr. Chambers served on counsel for Pebble Limited Partnership their objections to the subpoenas.

These subpoenas are 9 pages long listing an expansive number of documents and communications PLP seeks from Movants related to a large and varied number of topics, including Dr. Chambers' and CSP2's communications with the EPA regarding PLP's mining project, as well as internal communications of Dr. Chambers and CSP2 and communications with a long list of other non-parties. By their terms, these lengthy subpoenas would require production of every communication and document in CSP2's and Dr. Chambers' possession about the Pebble Creek Mine in Alaska, and not just communications with the EPA, as well

as documents concerning a number of other topics over more than a decade.

As Movants will show in their memorandum of law, the subpoenas are overbroad, unduly burdensome, and seek documents that are irrelevant to PLP's claims against the EPA in this action. PLP's claims are solely based on alleged violations by EPA of FACA and the Administrative Procedure Act, 5 U.S.C. § 706. Moreover, the subpoenas seek information that can be obtained directly from the EPA and that would be burdensome for CSP2 and Dr. Chambers to collect. Lastly, the subpoenas seek documents protected from disclosure by CSP2's and Dr. Chambers' First Amendment freedom of association and right to petition.

Because the only relevant information in the underlying FACA lawsuit can be discovered from EPA and its officials, because PLP must be estopped from reversing its statements about discovery to the Alaska court, and because, as non-parties to the lawsuit, the subpoenas are burdensome and infringe upon Dr. Chambers' and CSP2's First Amendment rights, this Court should quash the subpoenas pursuant to Rule 45(d)(3) of the Federal Rules of Civil Procedure and award sanctions and costs to Movants pursuant to Rule 45.

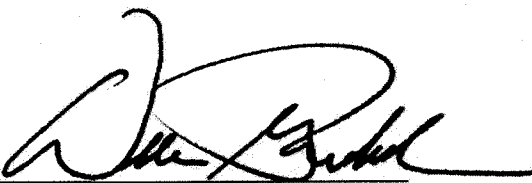
CSP2 and Dr. Chambers therefore respectfully request that the Court quash the subpoenas and order that CSP2 and Dr. Chambers need not comply with them and award appropriate sanctions.

This motion is supported by a Memorandum of Law, supporting Declaration

of Dr. David Chambers and relevant exhibits.

RESPECTFULLY SUBMITTED this 2nd day of October, 2015.

ROSSBACH LAW, PC

By: 
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*Attorneys for Non-Party Dr. David Chambers and
Center for Science in Public Participation*

CERTIFICATE OF SERVICE

I hereby certify that on October 2, 2015, I served on counsel for Plaintiff Pebble Limited Partnership a true and correct copy of the Center for Science in Public Participation's **OBJECTIONS TO PLAINTIFF'S SUBPOENA** by electronic and mail to:

Errol R. Patterson
Steptoe & Johnson LLP
1330 Connecticut Ave., N.W.
Washington, D.C., 20036
epatterson@steptoe.com

and via USPS mail to:

Thomas Amodio
REEVES AMODIO LLC
tom@reevesamodio.com

Additionally, courtesy copies have been sent via electronic mail to counsel for Defendants:

Brad Rosenberg
Robin Thurston
Stuart Robinson
U.S. DEPARTMENT OF JUSTICE
CIVIL DIVISION, FEDERAL PROGRAMS BRANCH
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A handwritten signature in black ink, appearing to read "Brad Rosenberg", is written over a horizontal line.